

LAURA THOMPSON, ESQ. (State Bar No. 219999)
 2370 Market Street, Suite 318
 San Francisco, CA 94114
 Telephone: (415) 264-8423
 Facsimile: (415) 558-9688
 Email: lthompsonesq@comcast.net
ATTORNEY TO BE NOTICED

MATTHEW STAVISH
 BERENATO, WHITE & STAVISH, LLC
 6550 Rock Spring Drive, Suite 240
 Bethesda, Maryland 20817
 Telephone: (301) 896-0600
 Facsimile: (301)
 Email: mstavish@bwsiplaw.com
LEAD ATTORNEY – ADMITTED PRO HAC VICE

Attorneys for Defendant

****E-filed 6/5/06****

IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

PHASE FORWARD INCORPORATED,
 a Delaware Corporation,

Plaintiff,

vs.

MARY NOEL ADAMS, individually and
 d/b/a PHASE FORWARD,

Defendant.

Case No.: C 05-4232 JF (HRL)

**APPLICATION, STIPULATION,
 DECLARATION AND [PROPOSED]
 ORDER EXTENDING DISCOVERY AND
 MOTION CUT OFF DATES**

APPLICATION

Pursuant to Civil Local Rule 6-2, plaintiff Phase Forward Incorporated and defendant Mary Noel Adams (hereinafter, the "Parties"), by and through their respective counsel, hereby request that the Court amend the existing Scheduling Order adopted on March 6, 2006, and extend by 30 days (1) the date on which discovery in this action is to be completed; (2) the last day for the parties to file expert reports; (3) the last day for the parties to file rebuttal expert

1 reports; (4) the date on which expert discovery will close; (5) the last day for the filing of
2 motions for summary judgment or partial summary judgment; and (6) the date set for motion
3 hearing.

4 **DECLARATION**

5
6 I, MATTHEW STAVISH, declare as follows:

7
8 1. I am an attorney duly admitted to practice law in the State of Maryland, and *pro hac vice*
9 in the Northern District of California in Civil Case No. C 05-4232 JF (HRL). I have personal
10 knowledge of the facts set forth herein, unless otherwise indicated, and if called as a witness
11 could and would so testify.

12 2. In its March 6, 2006 Order, the Court adopted the following discovery and motion
13 schedule, and set the motion hearing date:

14

Task/Action	Adopted Schedule
Close of Fact Discovery	June 1, 2006
Last Day to File Expert Reports	July 1, 2006
Last Day to File Rebuttal Expert Reports	August 1, 2006
Close of Expert Discovery	October 1, 2006
Last Day to File Motions for Summary Judgment and Partial Summary Judgment	November 1, 2006
Motion Hearing Date	December 15, 2006 at 9:00 a.m.

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24
25 3. In early May 2006, the parties began coordinated efforts to schedule depositions for their
26 intended witnesses.

27 4. Plaintiff informed me of its intent to depose Mary Noel Adams. I likewise advised of my
28 intent to depose Plaintiff's 30(b)(6) witness, as well as individuals listed in Plaintiff's Rule 26 (a)


1 disclosure, namely, Robert K. Weiler, Paul Bleicher, Ari Buchler, William Porter, Steve Powell
2 and Lynette Herscha. I also expressed my preference to depose these witnesses with the benefit
3 of their responses to my document and information requests, served on April 13, 2006.

4 5. Despite diligent efforts, both Parties had difficulty coordinating counsel and deponent
5 availability throughout May 2006. (The earliest feasible date for Mary Noel Adams' deposition
6 was May 23, 2006.)

7 6. I received the documents produced by Plaintiff on Friday, May 19. Knowing my client
8 was to be deposed the following Monday, May 23, 2006, and anticipating increased scheduling
9 complications entering the last week of discovery, and an imminent Memorial Day weekend,
10 Nathan Dean (Plaintiff's counsel), and I agreed that a 30 day extension of discovery and motion
11 deadlines would provide both sides with the time needed to complete their respective factual
12 investigations.

13 7. There have been no prior modification of the case management dates adopted in the
14 Court's March 6, 2006 Order.

15 I declare under penalty of perjury under the laws of the United States that the foregoing is
16 true and correct to the best of my knowledge, and that this Declaration was executed at Bethesda,
17 Maryland, on this 1st day of June, 2006.

18
19 
20 Matthew Stavish

STIPULATION

For the reasons set forth above, the Parties stipulate to a 30 day extension of the discovery and motion cut-off dates adopted in the Court's March 6, 2006 Order, and jointly request that this Court approve the following modified schedule:

Task/Action	Adopted Schedule	Modified Schedule
Close of Fact Discovery	June 1, 2006	July 3, 2006
Last Day to File Expert Reports	July 1, 2006	August 1, 2006
Last Day to File Rebuttal Expert Reports	August 1, 2006	August 31, 2006
Close of Expert Discovery	October 1, 2006	October 31, 2006
Last Day to File Motions for Summary Judgment and Partial Summary Judgment	November 1, 2006	December 1, 2006
Motion Hearing Date	December 15, 2006 at 9:00 a.m.	30 day extension, in deference to the Court's calendar

Dated: June 1, 2006

LAURA THOMPSON, ESQ.

By: 

Laura Thompson
Attorney for Defendant
MARY NOEL ADAMS

Dated: June 1, 2006

PHILLIPS, ERLEWINE & GIVEN LLP


By: 

Spencer Martinez
Attorneys for Plaintiff
PHASE FORWARD INCORPORATED

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

June 2, 2006



United States District Court Judge
Judge Jeremy Fogel